

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



**CORRECTED  
FISCAL MEMORANDUM**

**SB 3729 – HB 3758**

April 6, 2010

**SUMMARY OF AMENDMENT (015877):** Requires the Division of Intellectual Disabilities Services (DIDS) to provide written notice of its intent to propose legislation to permit immediate or gradual closure of any state-owned or -operated facility that provides residential services to persons with mental retardation or other developmental disabilities to the House Health and Human Resources Committee and the Senate General Welfare, Health, and Human Resources Committee 60 days prior to the legislative session. The same notice must be sent by registered mail to each resident and the resident's immediate family or guardian. Prohibits DIDS from closing a state-owned or -operated facility without legislative action for that purpose or a specific line item appropriation in the appropriations act.

In the event of a health or safety emergency or a federal action requiring or necessitating the immediate or gradual closure of a facility, DIDS may seek relief from the provisions of the bill in the chancery court of the county in which the facility is located if DIDS has provided written notice to the residents and the residents' immediate family or guardians at least 10 days prior to filing a petition with the court. All interested parties with standing to act on behalf of a resident shall have standing in the court proceedings regarding the closure of the facility. Any interested parties with standing to act on behalf of a resident who chooses to challenge the actions or decisions of DIDS regarding the notice requirements or closure of a facility will have a cause of action in the chancery court of the county in which the facility is located or in the Davidson County Chancery Court. An interested party may seek compensatory damages and attorney fees, but punitive damages are not allowable.

DIDS is subject to the notice requirements for any facility in which the Division has announced plans to close prior to July 1, 2010, other than a facility closing pursuant to federal court order or settlement. Notice must be given by July 11, 2010, and all proceedings towards closure shall be delayed until all proceedings for all hearings permitted under the provisions of the bill have been completed. Ceases all actions in the furtherance of the planned closing or downsizing of Clover Bottom Developmental Center including laying off employees, moving the residents of the center to other placements, or both unless the actions are specifically mandated by the court. Prohibits downsizing or closing actions from resuming until the Department of Mental Health and Developmental Disabilities constructs 30 homes in Middle Tennessee, each of which providing a home to four residents with mental retardation that are presently living in Clover Bottom; the Department informs the families and guardians of each Clover Bottom resident that they have the opportunity to choose to place their family member in the new homes regardless of prior placement choices; and the Department develops a plan to transfer persons presently employed at Clover Bottom to the new community homes as construction is completed and residents are transferred there. The Department is not prevented

**SB 3729 – HB 3758 (CORRECTED)**

from continuing or instituting an immediate reduction-in-force to reduce the Clover Bottom workforce to the level which will be required to operate the thirty community homes.

**FISCAL IMPACT OF ORIGINAL BILL:**

MINIMAL

**FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:**

On March 24, 2010, a fiscal memorandum was issued estimating a fiscal impact as follows: *Increase State Expenditures – \$18,000,000/FY10-11 through FY11-12 and an Other Fiscal Impact – The proposed FY10-11 budget includes a reduction in recurring state funds of \$8,027,000 for the downsizing of the Clover Bottom Developmental Center. The proposed FY10-11 budget also includes a restoration of \$4,013,500 in non-recurring funds for six months of services to the individuals being transferred to other services. Prohibiting the downsizing will result in an increase in state funds for DIDS to continue to provide services at the current level.* Based upon further analysis, it was determined that funds in the Governor's proposed FY10-11 budget document were not accurately identified. The estimated fiscal impact is:

**(CORRECTED)**

**Increase State Expenditures - \$18,000,000/One-Time**

**Other Fiscal Impact – The proposed FY10-11 budget includes a reduction in recurring state funds of \$8,027,000 for the downsizing of the Clover Bottom Developmental Center. The proposed FY10-11 budget also includes a restoration of \$4,013,500 in non-recurring funds for six months of services to the individuals being transferred to other services. Prohibiting the downsizing will result in an increase in state funds for DIDS to continue to provide services at the current level.**

**The Governor's proposed FY10-11 budget includes \$50,000,000 in capital outlay project funds to provide for 30 new group homes for clients with developmental disabilities at Clover Bottom Developmental Center.**

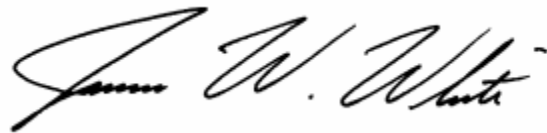
Assumptions applied to amendment:

- DIDS is currently planning to downsize and eventually close the Clover Bottom Developmental Center.
- The FY10-11 proposed budget includes a recurring reduction of \$8,027,000 in state funds to downsize the Clover Bottom Facility to 32 residents. Of this reduction, \$4,013,500 is proposed to be restored with non-recurring funds in FY10-11 for six months of funding for 76 residents to transition to private ICF/MR facilities or to the home- and community-based waiver program. The proposed net reduction will be \$4,013,500 in FY10-11.

- The provisions of the bill as amended would require DIDS to construct 30 homes in Middle Tennessee that will provide residences to the individuals currently living at Clover Bottom.
- The estimated fiscal impact is based on the construction of 27 homes to serve the 108 residents of the facility (108 residents/4 residents per home).
- According to information provided by the Division of Intellectual Disabilities, there are two levels of homes that the Division builds. The first level is for residents who do not have as extensive medical needs as other residents. This level home costs approximately \$450,000. The second level homes are customized for residents with more extensive medical needs and costs approximately \$900,000 to construct.
- It is assumed that the 27 community homes will be a combination of both levels of homes. For the purposes of the estimated fiscal impact, it is assumed that approximately 50 percent will be level one homes and approximately 50 percent will be level two homes.
- It is estimated that the construction of 14 level one homes will result in an increase in expenditures of \$6,300,000 (14 x \$450,000) and the construction of 13 level two homes will result in an increase in expenditures of \$11,700,000 (13 x \$900,000).
- The construction of and transition to these new community homes will take approximately two years resulting in a one-time increase in expenditures of \$18,000,000.
- The Governor's proposed FY10-11 budget includes \$50,000,000 in capital outlay project funds to build 30 new group homes for clients with developmental disabilities at Clover Bottom Developmental Center.

## **CERTIFICATION:**

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director

/kml